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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,488	02/27/2002	Tetsushi Kobayashi	1341.1121	6513
21171	7590	03/19/2007	EXAMINER	
STAAS & HALSEY LLP			ALLEN, WILLIAM J	
SUITE 700			ART UNIT	
1201 NEW YORK AVENUE, N.W.			PAPER NUMBER	
WASHINGTON, DC 20005			3625	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/083,488	KOBAYASHI ET AL.	
	Examiner	Art Unit	
	William J. Allen	3625.	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/17/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

Claims 1 and 3-22 are pending and rejected as set forth below.

Claim 2 was previously canceled.

Response to Arguments

Applicant's arguments, see pages 7-17, filed 1/18/07, with respect to the rejection(s) of claim(s) 7-8, 10, 12, and 14 under 35 USC 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Peterson in view of Chao .

Applicant's arguments filed 1/18/07 with respect to the rejections(s) of claims 1, 3-6, and 11 under 35 USC 103(a) have been fully considered but they are not persuasive. In particular, the invention of Chao is specifically directed to "back ordering out of stock products" for a customer (see at least: abstract, 0001). Chao further provides the ability to "determine whether a particular product is out of stock and whether the customer wishes the item to be back ordered" (see at least" 0009 and 0010). The database 8 of Chao is equipped to interact with server 4 and further contains information related to the inventory of a product that information including "product tracking, back orders, out of stock products, and the like" (see at least: 0012). Thereby, Chao encompasses managing information on out of stock products. Additionally, the Examiner notes that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The rejection of claims , 3-6, and 11 is thereby maintained.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 3-6, 9, 11, 13, 15, 17, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chao et al. (US 2002/0128918, herein referred to as Chao) in view of PTO 892 reference U (herein referred to as 892u).**

Regarding claim 1 and related claims 9, 11, and 13, Chao teaches:

managing information regarding products that are not in the inventory in each store, the product that is not in inventory being a product that is out of stock (see at least: abstract, 0005, 0012, 0009, 0014, Fig. 2);

updating the information regarding the products that are not in inventory in the each store using selection of a product catalog by a purchaser as a trigger (see at least: abstract, 0001, 0005, 0009, 0012, 0014-0015, claims 1, 3, 7, 11, 12, and 16).

Chao, however, does not expressly teach *introducing a purchaser to a second store in which a product selected by a purchaser is available when the purchaser selects a product that is not in inventory from a catalog*. 892u teaches *introducing a purchaser to a second store in which a product selected by a purchaser is available when the purchaser selects a product that is not in inventory from a catalog* (see at least: Paragraphs 1, 53, 57-58, and 80). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention

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of Chao to have included *introducing a purchaser to a second store in which a product selected by a purchaser is available when the purchaser selects a product that is not in inventory from a catalog* as taught by 892u in order to provide referral channels that provide financial gains in addition to the natural gains in goodwill from serving customers for both referrers and referees (see at least: 892u, Paragraphs 46 and 48).

Regarding claim 3, Chao teaches managing information regarding stock shortage products for each store, the stock shortage product being a product that is out of stock in one particular store but that is available in another store (see at least: abstract, 0001, 0005, 0009, 0012, 0014-0015, claims 1, 3, 7, 11, 12, and 16). Chao, however, does not expressly teach *wherein the purchaser is introducing to another store based on the information regarding the stock shortage products*. 892u teaches *wherein the purchaser is introducing to another store based on the information regarding the stock shortage products* (see at least: Paragraphs 1, 11, 53, 57-58, and 80). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Chao to have included *wherein the purchaser is introducing to another store based on the information regarding the stock shortage products* as taught by 892u in order to provide referral channels that provide financial gains in addition to the natural gains in goodwill from serving customers for both referrers and referees (see at least: 892u, Paragraphs 46 and 48).

Regarding claim 4, Chao teaches *updating the information regarding the stock shortage for each store using selection of a product from the product catalog by a purchaser as a trigger* (see at least: abstract, 0001, 0005, 0009, 0012, 0014-0015, claims 1, 3, 7, 11, 12, and 16).

Regarding claim 5, Chao teaches all of the above but does not teach *payment of fee by another store to which the purchaser has been introduced to the store from whose product catalog the purchaser has selected the product that is not in inventory*. 892u teaches *payment of fee by another store to which the purchaser has been introduced to the store from whose product catalog the purchaser has selected the product that is not in inventory* (see at least: Paragraphs 1, 53, 58-57, and 80). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Chao to have included *payment of fee by another store to which the purchaser has been introduced to the store from whose product catalog the purchaser has selected the product that is not in inventory* as taught by 892u in order to provide referral channels that provide financial gains in addition to the natural gains in goodwill from serving customers for both referrers and referees (see at least: 892u, Paragraphs 46 and 48).

Regarding claim 6, Chao in view of 892u teaches all of the above as noted and further teaches using back orders to fulfill customer orders (see at least: abstract). Chao in view of 892u also teaches and *selecting the step of introducing the purchaser to another store* (see at least: 892u, Paragraphs 1, 11). Chao in view of 892u, however, does not expressly teach placing an order for the product that is not in inventory that has been selected by the purchaser *to a manufacturer*. Peterson teaches placing an order for the product that is not in inventory that has been selected

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by the purchaser *to a manufacturer* as well as and *selecting the step of placing the order to the manufacturer* (see at least: 0002, 0027, 0034). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Chao in view of 892u to have included placing an order for the product that is not in inventory that has been selected by the purchaser *to a manufacturer* as taught by Peterson in order to provide a system to maintain a supply network and an information network for selectively distributing information about inventory levels and pricing among vendors, thereby allowing the efficient transfer of inventory between parties (see at least: Peterson, 0004).

Regarding claims 15, 17, 19, and 21, Chao in view of 892u further teach wherein the managing information regarding products that are not in inventory in each store occurs before the purchaser selects one of the products that are not in inventory (see at least: 0010-0012, Fig. 1 (note #12)). The Examiner notes that one of the user systems shown in figure 1 is a supplier system, which can be used to maintain (i.e. manage) inventory levels by the supplier (i.e. independent from the automated updating resulting from a customer purchase inquiry).

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3. **Claims 7-8, 10, 12, 14, 16, 18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being anticipated by Peterson et al. (US 20010011232) in view of Chao.**

Regarding claims 7 and related claim 12, Peterson teaches:

managing information regarding products that are not in the inventory in each store (see at least: abstract, 0001, 0004, 0031-0033, 0042, 0137, Fig. 1, 2, and 4);

performing a shipment process of ordering the product selected by the purchaser from another store in which the product is available to a store in which the product is not in inventory when the purchaser selects the product that is not in inventory from the product catalog of one store (see at least: abstract, 0001-0004, 0031-0033, 0137).

Though Peterson pertains directly to the management of inventory levels as noted and implicitly suggests the management of out of stock items (see at least: 0002 (note “a part that the vendor does not have on hand in inventory”))), Peterson lacks an explicit teaching of the management of *out of stock* parts. In the same field of endeavor, Chao teaches a system for providing customers with the ability to back order items that are out of stock. Additionally, the invention of Chao includes a database containing product information, back orders, out of stock products, and the like, and further provides a means to determine whether a product is out of stock (see at least: abstract, 0001, 0009, 0012). Thereby, Chao teaches managing information on products not in inventory, the products not in inventory being *out of stock*.

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Peterson to have included the explicit management of products considered *out of stock* as taught by Chao in order to provide an efficient, inexpensive system for ordering out of stock parts for a user (see at least: Chao, 0004).

Regarding claim 8, Peterson in view of Chao further teaches *managing information regarding stock shortage products for each store, the stock shortage products being a product that is out of stock in one particular store but that is available in another store and performing shipping processing of ordering products for another store based on the information regarding the stock shortage products* (see at least: Peterson, abstract, 0001-0004, 0031-0033, 0042, 0137, Fig. 1-4; Chao, abstract, 0001, 0009-0014).

Regarding claims 10 and 14 (related to claims 7 and 12), Peterson in view of Chao further teaches shipping a product selected by a purchaser from a second store in which the product selected by the purchaser is available when a purchaser selects a product that is not in inventory from a catalog of a first store (see at least: Peterson, abstract, 0001-0004, 0031-0033, 0137).

Regarding claims 16, 18, 20, and 22, Peterson in view of Chao further teaches wherein the managing information regarding products that are not in inventory in each store occurs before the purchaser selects one of the products that are not in inventory (see at least: Chao, 0010-0012, Fig. 1 (note #12)). The Examiner notes that one of the user systems shown in figure 1 is a supplier system, which can be used to maintain (i.e. manage) inventory levels by the supplier (i.e. independent from the automated updating resulting from a customer purchase inquiry). Additionally, the Examiner notes that the inventory in Peterson may be managed independent from customer purchases.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


- US 5878401 discloses a sales and inventory method and apparatus
- US 20010032146 discloses a sales managing method, sales managing system and article selling system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen
Patent Examiner
March 1, 2007


MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600